

April 10, 2019

Mr. Devin Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, Maryland 21286

Re: ClarkDietrich Building Systems
4601 North Point Boulevard
Baltimore, Maryland 21219
Forest Conservation Special Variance
Tracking # 07-19-2939

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6, Forest Conservation, was received by the Department of Environmental Protection and Sustainability (EPS) on February 22, 2019. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.5-acre (21,780 square feet) limit of disturbance (LOD) rather than the entire 35-acre site. The project proposes to grade 0.5-acre in order to construct a bio-retention facility as required stormwater management for an existing industrial use. The industrial property was developed in the 1960s. The current tenant is ClarkDietrich, which has locations in eleven states and manufactures building systems from cold-formed steel. These products are utilized in building framing and finishing. The property is located along the west side of North Point Boulevard, approximately one-half mile south of Wise Avenue in the Sparrows Point section of Baltimore County.

The developed, eastern portion of the property consists of manufacturing and warehouse buildings, and truck parking areas, with access to and from North Point Boulevard. The western, approximately two-thirds of the property is forested, and contains a large area of non-tidal wetlands. The proposed project area is located at the southeast corner of the site, adjacent to North Point Boulevard. The LOD area consists of scattered trees and shrubs. No wetlands or streams are present within or adjacent to the LOD.

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The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant must meet stormwater management requirements. Full application of the Forest Conservation Law to the entire property would not deprive the applicant of beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The site has been an existing industrial use for more than 50 years, and was developed prior to the Forest Conservation regulations. Compliance with the stormwater management requirements is due to unique circumstances associated with the subject property and its operation, rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Only approximately 0.5-acre of the 35 acre property would be disturbed to satisfy stormwater management requirements. This industrial site has been in the neighborhood for decades and is surrounded by other properties with similar or identical uses. The use and appearance of the site will be maintained, and the surrounding area will be better served by the proposed bio-retention facility. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project does not impact wetlands, forest buffer or forest. The wetlands and forest buffer on the western portion of the property will be protected in perpetuity by its required recordation as a Forest Buffer Easement in the Land Records of Baltimore County, thereby actually improving water quality on and adjacent to the property, along with the improved water quality associated with the proposed bio-retention facility that is the subject of this variance request. Therefore, we find that this criterion has been met.

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The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any related actions on the property prior to requesting this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on the limit of disturbance to meet stormwater management requirements for an existing, industrial facility would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest, wetlands or forest buffer would result from the proposed development, and water quality would be enhanced by the project itself and by the recordation of a Forest Buffer Easement. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. An approved Forest Conservation Plan (FCP)/Forest Buffer Protection Plan is required prior to the issuance of any permits. This will include an afforestation requirement of 0.1-acre at \$0.55 per square foot (\$2,395.80). If available, purchase of credit at a EPS-approved forest conservation retention bank may satisfy the afforestation requirement.
2. The afforestation and mitigation requirements must be satisfied prior to the issuance of any permits.
3. The Forest Buffer Easement must be recorded in the Baltimore County Land Records prior to the issuance of ant permits.
4. The following note must appear on all future plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of Environmental Protection and Sustainability to base the afforestation requirement on the 0.5-acre limit of disturbance rather than the entire 35 acre site. The bio-retention facility at the southeastern corner of the site is reflective of the fact that the variance was approved. The variance was conditionally approved to reduce water quality impacts."

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It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request. This variance does not exempt future development of this site from complying with Baltimore County's Forest Conservation Law. Please have the property owner (s) sign the statement below and return a signed copy of this letter to this Department prior to building permit issuance. If there are any questions regarding this correspondence, please contact Thomas Panzarella at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

DVL/tcp

I/we agree to the above conditions to bring the referenced property, located at 4601 North Point Boulevard, into compliance with Baltimore County's Forest Conservation Law.

Signatures(s) of Property Owner(s)

Date

Property Owner's Printed Names

ClarkDietrichFCVA.LOD4.10.19.doc/sheir/TCP